

AMELIA DELEGENTE, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (BUREAU OF POSTS), RESPONDENTS.

G.R. No. L-47460. November 02, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This petition for certiorari seeks to set aside the decision of respondent Employees' Compensation Commission dated October 26, 1977 in ECC Case No. 0533, which affirmed the March 25, 1976 decision of respondent GSIS denying the deceased's claim for medical and income benefits pursuant to Presidential Decree No. 626, as amended.

The late Baltazar Delegente, a resident of Jacinto Street, Mauban, Quezon, was employed with the Bureau of Posts, Postal Region 4-A, San Pablo City, as letter-carrier with the additional duties of mail messenger for more than thirty-four (34) years from January 1, 1942 until his death on May 28, 1976.

Baltazar Delegente was under the medical care of a certain Dr. Diony M. Mopera of Lucena City and was confined at the Clinic of Mount Carmel in Lucena City on October 20, 1975 where he underwent total thyroidectomy and excision biopsy of the supra-clavicular mass. Biopsy result revealed metastatic well-differentiated epidermoid carcinoma.

On March 10, 1976, he filed a claim for medical and income benefits with the Government Service Insurance System (GSIS) pursuant to P. D. No. 626, as amended.

On March 24, 1976, the deceased allegedly underwent an X-ray examination at the Quezon Provincial Chest Center, Department of Health.

On March 25, 1976, respondent GSIS denied the deceased's claim on the ground that his ailment, epidermoid carcinoma of the thyroid gland, is not an occupational disease and neither did it arise nor was it the result of the nature of his duties as letter-carrier.

On April 5, 1976, the late Baltazar Delegente filed a motion for reconsideration pertinent portion of which reads:

"While my previous official designated position as Letter-Carrier involved a close and frequent contact with source or sources of tuberculous infection besides from my being subjected to all kinds of weather daily. It is obvious, therefore, that these circumstances may be the cause of the disease reflected on the hereto attached x-ray lung examination File No. A-53819 dated March 24, 1976. And while my present illness casts doubt to my ability to give further financial support to my poor dependents considering that I could almost count now the number of months I have to stay with them, it is therefore respectfully prayed and requested for justice sake, that the whole amount of one thousand three hundred twenty one pesos and thirty two centavos (P1,321.32) representing my medical expenses incurred, be paid and refunded, as per medical receipts attached hereto" (Annex "D", p. 23, rec., italics supplied).

On May 28, 1976, Baltazar Delegente died.

Respondent GSIS in a letter dated May 31, 1976 and received by herein petitioner, denied the claim stating inter alia:

"Under the present law on compensation, the listed occupational diseases are compensable when the conditions set therein are satisfied. It also allows certain diseases to be compensable whenever the claimant is able to prove that the risks of contracting such diseases are increased by the working conditions attendant to his employment. This is provided under Section 1 (b), Rule III, of the Rules and Regulations implementing Presidential Decree No. 626 which took effect on January 1, 1975. As far as the degree of proof is concerned, the claimant must be able to show, at least by substantial evidence, that the development of the ailment was brought about largely by the working conditions present in the nature of employment.

"In the case at bar, your ailment is Epidermoid Carcinoma, Thyroid Gland. This ailment, not being listed as an occupational disease, therefore, requires such degree of proof as mentioned above. On the basis, however, of the papers and evidence on record which you have submitted hereat, it appears that you have not established that your employment had any causal relationship with the contraction of the ailment. While it is admitted that the aforesaid ailment supervened in the course of your employment, there has not been any showing that the same directly arose therefrom or resulted from the nature thereof. If at all, we believe that the performance of the duties and responsibilities of a Letter-Carrier in the Bureau of Posts, San Pablo City, could have just aggravated your physical condition. Unfortunately, however, such aggravation is no longer compensable under the present law" (Annex "C", p. 22, rec., italics supplied).

On August 7, 1976, herein petitioner (widow of the late Baltazar Delegente) filed a second motion for reconsideration with the respondent Government Service Insurance System (GSIS) alleging that the death of the deceased was due to cancer of the thyroid gland with secondary pulmonary tuberculosis (PTB) [Annex "F", p. 25, rec.]

On December 22, 1976, respondent GSIS affirmed its denial of the deceased's claim thus:

"Please be informed that we are reaffirming our stand on the case. Granting that your late husband had Pulmonary Tuberculosis and its resulting disability or death to be compensable, the employee manifesting this disease should have an occupation involving close and frequent infection by reason of employment: (a) In the medical treatment or nursing of a person or persons suffering from tuberculosis, (b) As a laboratory worker, pathologist or post-mortem worker, where occupation involves working with material which is a source of tuberculosis infection.

"The duties of your late husband, therefore, could not have directly caused his ailments, Epidermoid Carcinoma, Thyroid Gland, and Pulmonary Tuberculosis. Be informed further that the entire records of your case will be elevated to the Employees' Compensation Commission for review" (Annex "G", p. 26, rec.).

The second request for reconsideration of the letter-decision of denial of the respondent GSIS was treated by it as an appeal to the Employees' Compensation Commission (ECC). Pursuant to Section 5, Rule XVII of the Rules implementing P.D. No. 626, as amended, the entire records of the case were elevated to the Employees' Compensation Commission (ECC) for formal review.

On October 26, 1977, the Employees' Compensation Commission rendered a decision affirming the denial of the claim by the Government Service Insurance System, pertinent portion of which states:

"Appellant herein seeks the Commission's mercy and sympathy, considering the helpless situation she is in at the moment, having been left behind by her husband with plenty of debts to pay, not to mention the fact that she, too, is jobless with two dependents.

"Much as we want to help appellant herein, considering the miserable plight she is suffering at the moment, we can not, however, find any basis under the new employees' compensation program, PD 626, upon which this claim is based, that would empower us to decide in favor of the compensability of the claim.

"For sickness to be compensable, it must be 'any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by working conditions' (par. 1, Article 165, PD 626) Section I (b). Rule III of the Rules implementing PD 626, further provides that 'For sickness and the resulting disability or death to be compensable, it must be the result of an occupational disease listed under Annex "A" of these Rules with the conditions set therein satisfied; otherwise, the employee must prove that the risk of contracting the disease is increased by the working conditions.'

"In the case at bar, the deceased's ailment is not an occupational disease, thus, it is incumbent upon appellant herein to prove that the ailment resulting to the death of her husband was caused by his employment and that the risk of the contraction of the disease was increased by his working conditions as Letter-Carrier. The records, however, is bereft of any proof showing the service-connection of deceased's ailment. The medical certificates submitted by the deceased's attending physician showed nothing other than the fact that the deceased was suffering from this ailment of Metastatic Epidermoid Carcinoma. In fact, the deceased's attending physician categorically answered 'No' to the question 'Was the illness directly caused by employee's duties?' (Part III, Physician's Certification).

"Moreover, the etiology of this disease as discussed by medical authorities shows:

"Thyroid Carcinoma. It is not possible to determine the exact prevalence of thyroid cancer because of such wide variation in the pathologic criteria and the lack of uniformity in reporting cases. There is proof that this disease is more common in one geographic region than another. The number of cases found in a given area depends upon the interest in the disease Contrary to the repeated statement that most thyroid cancers arise in a previously existing adenoma, the truth is that nearly all of them arise de novo. Malignant tumors arise in toxic goiters, but the prevalence is less than 2%. Carcinoma of the thyroid gland is most common in the fifth decade of life, but it may be found at any age. Twelve cases have been reported in which thyroid tumors present at birth proved a short time later to be malignant. One patient died a few hours after birth as the result of a papillary and follicular carcinoma of the thyroid gland that had eroded the trachea' (Anderson, W.A.D.; Pathology, Japan, Mosby Co., 5th edition, 1966, p. 1096).

"In view of the reasons cited as well as the medical discussions above, we find no alternative but to affirm the decision of the respondent System.

"We are in sympathy with the appellant, but we cannot simply decide the case in favor of the appellant without doing violence to the law, PD 626, upon which this claim is based, which denied compensability of this case. Moreover, the record is bereft of substantial proof that the risk of contracting the disease of Epidermoid Carcinoma resulting in death, was increased by the deceased's working conditions" (pp. 2-4, Annex "A", pp. 18-20, rec., italics supplied).

On November 7, 1980, respondent Employees' Compensation Commission filed its memorandum which in substance alleged the following: that the alleged ailment of the late Baltazar Delegente, thyroid carcinoma, is not one of the occupational diseases listed by the Employees' Compensation Commission as compensable; that the petitioner failed to prove that at least the risk of contracting the aforesaid illness was increased by the working conditions of the deceased as a letter-carrier (pp. 69-75, rec.).

On January 21, 1981, respondent Government Service Insurance System filed its memorandum. To support its stand rejecting the claim filed by petitioner, respondent GSIS claims the following propositions:

- (a) that the employer, not the State Insurance Fund, is liable to pay the claim in this case;
- (b) that receipt of retirement benefits already bars an employee's compensation claim;
- (c) that under the present law, aggravation is no longer compensable;
- (d) that the ailment of tuberculosis has not been clearly proven in this case;
- (e) that a correct interpretation of the law negates compensability; and
- (f) that employees' compensation claims are non-adversary in nature (pp. 1-2, Memorandum for Respondent GSIS, pp. 97-98, rec.).

The petition is patently meritorious and must be granted.

It is material to note that while concededly the instant claim was filed by the late Baltazar Delegente and later by the herein widow-petitioner after the effectivity of the New Labor Code, the governing law is the old Workmen's Compensation Law considering that the cause of action accrued before the effectivity of the New Labor Code. This proposition is supported by the undisputed facts in the case at bar. Thus, the attending physician in reporting the history of the deceased's illness stated:

"Mr. Baltazar Delegente, 56 yrs. old, of Mauban, Quezon, has consulted last Sept. 13, 1975 due to a hard masses (sic) at the left supra-clavicular area and bilateral thyroid adenoma. This started about 1-1/2 yrs. before consulting the undersigned. He sought surgical consultation because of increasing difficulty of breathing and massive enlargement of the masses. He was confined at the Clinic of Mount Carmel last Oct. 20, 1975 wherein he underwent total thyroidectomy and excision biopsy of the supra-clavicular masses. Biopsy result revealed metastatic well-differentiated epidermoid carcinoma. Because of this findings he never regained his usual health. This condition became more severe until he died last May, 1976" (Part III, Attending Physician's Certification, italics supplied).

The same view is shared by the respondent Government Service Insurance System when it averred:

"It is to be noted from the facts of this case that the ailment of petitioner's husband had its onset one and a half years before September 13, 1975, as clearly found by the attending physician. This would mean that the cause of action in this case accrued sometime in the month of April 1974, or prior to the effectivity of the present employees' compensation law" (pp. 8-9, Memorandum for Respondent GSIS, pp. 104-105, rec., italics supplied).

Hence, from the uncontroverted facts above stated WE are constrained to reiterate OUR pronouncements in the case of *LaO vs. Employees' Compensation Commission, et al.*, G.R. No. 50918, May 17, 1980 and citing several cases. Thus:

". . . Indubitably, the cause of action accrued before the effectivity of the New Labor Code. And this Court ruled in *Corales vs. Employees' Compensation Commission, et al.* (88 SCRA 547 [1979]) that the governing law in the prosecution of the cause of action which accrued prior to the effectivity of a new law on the same subject matter, shall be the law in force at the time of the accrual of said cause of action. Since the Workmen's Compensation Act was then in full force and effect, then it should govern in the case at bar.

"Moreover, this Court said:

'Petitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. And the Employees' Compensation Commission is duty-bound to observe and apply the foregoing principles in passing upon workmen's compensation . . .'

"Since decedent's ailment supervened during the course of his employment, it is thus presumed that the same arose out of or at least was aggravated in the course of his employment in the absence of proof to the contrary which respondents failed to establish."

WE also ruled in the very recent case of *Jimenez vs. ECC, et al.*, G.R. No. 57341, January 18, 1982, that:

"Under the Workmen's Compensation Act there is a disputable presumption that the death of Leonardo J. Jimenez is compensable because his illness occurred during his employment with the Philippine National Railways.

"In *G. B. Francisco, Inc. vs. Workmen's Compensation Commission* (87 SCRA 22, 30), this Court held:

'The Workmen's compensation Act which governs the present situation expressly provides in its Section 44 that in the absence of substantial evidence to the contrary it is presumed that a claim comes within the provisions of this Act. Time and again this Court stated that under this declaration of a benign and sound public policy, an employee is freed from the burden of proving that his illness or injury was caused or aggravated by the nature of his work. In fact, the cause of the ailment is immaterial; what is important is that it occurred or was aggravated in the course of employment and disabled the workman from pursuing his ordinary occupation.'

"It does not appear that the employer, Philippine National Railways, adduced any evidence to rebut the presumption that the death of the deceased employee was compensable" (*italics supplied*).

It is therefore clear from the foregoing facts that the stand of respondent Employees' Compensation Commission is based on a wrong premise. Its vehement denial of petitioner's claim was founded on the theory that said claim had to be resolved under the provisions of the New Labor Code and not under the provisions of the old Workmen's Compensation Act.

There can be no question that the late Baltazar Delegente was presumably in good health when he started working as laborer from January 1, 1942 to February 26, 1945 with the respondent-employer Bureau of Posts. Upon his reinstatement on November 8, 1946, he assumed the position of a letter-carrier (Service Record of the late Baltazar Delegente, p. 1, ECC rec.).

To substantiate her claim that the death of her husband is compensable, herein petitioner stated:

"As alleged by the deceased in his motion for reconsideration of the decision of the respondent System denying his claim under PD 626, as amended, the deceased as Letter-Carrier, was subjected to all health hazards, such as exposure to sudden changes of weather, dust, dirt, fatigue, hunger and contact with people of lowest economic level where the ailment of PTB is prevalent. It is not, therefore, incredible that the deceased contracted his ailment by reason of his long, continuous exposure to health hazards inherent in the nature of his work as Letter-Carrier. In fact, the respondent System admitted the fact that the working conditions of the decedent aggravated his physical condition (Annex "C" of the Petition), and does not dispute the view that the deceased's ailments supervened during the course of his employment as Letter-Carrier of the Bureau of Posts, much more, that said ailments occurred in the latter part of his employment with said office. . . .

"... ..

"It is significant to note that the decision of the respondent Commission is mainly anchored on a medical discussion on Thyroid Carcinoma, particularly, the prevalence thereof in a certain locality. To quote:

'Thyroid Carcinoma. It is not possible to determine the exact prevalence of thyroid cancer because of such wide variation in reporting cases. There is proof that the disease is more common in one geographic region than in another. The number of cases found in a given area depends upon the interest in the disease . . . Contrary to the repeated statement that most thyroid cancers arise in a previously existing adenoma, the truth is

that nearly all of them arise de novo. Malignant tumors arise in toxic goiters, but the prevalence is less than 2%' (Anderson, W.A.D.: Pathology, Japan, Mosby Co., 5th edition, 1966, p. 1096).

"There is nothing from the aforequoted medical discussion that refutes the claim of the petitioner that her late husband's ailment of Thyroid Carcinoma was caused by his employment, the risk of contraction thereof was increased by his working conditions. The medical authorities are not in disagreement that the cause of cancer is unknown. Thus, there is nothing that hinders us to contend that it was by reason of his employment that the deceased contracted this fatal ailment.

"Granting for the sake of argument that Thyroid Carcinoma is not an occupational disease for the employment the deceased was engaged in; the respondents, however, failed to take into account the fact that the deceased was also sick of PTB, the contraction of which was largely brought about by the nature and the working conditions of his employment. Respondents should have taken into account the fact (that) these ailments are interrelated, both being ailments of the respiratory system; and that the ailment of PTB may have caused, contributed or accelerated the rapid progression of his other ailment of Thyroid Carcinoma" (pp. 7-9, Brief for the Petitioner, pp. 35-I to 35-K, rec., italics supplied).

WE ruled in the case of Cristobal vs. ECC, et al., G.R. No. L-49280, April 30, 1980, that:

". . . It is palpable that the respondent ECC recognizes, as it is duty bound to, the policy of the State to afford maximum aid and protection to labor. Therefore, to require the petitioner to show the actual causes or factors which led to the decedent's rectal malignancy would not be consistent with this liberal interpretation. It is of universal acceptance that practically all kinds of cancer belong to the class of clinical diseases whose exact etiology, cause or origin, is unknown. It is in this regard that the evidence submitted by the petitioner deserves serious consideration" (italics supplied).

Again, in the above-cited case of LaO vs. ECC, et al., supra, citing a long line of cases, WE pronounced:

". . . It has been repeatedly held that under the Workmen's Compensation Law, it is not necessary to establish his case to the point of demonstration. It is sufficient to show that the hypothesis on which he bases his claim is probable (Abana, et al. vs. Quisumbing, L-23489, March 27, 1968, citing MRR vs. WCC & Pineda, supra). The aforesaid doctrine was later reaffirmed in the case of Mercado vs. WCC, et al. (L-42451, July 30, 1976).

"In the Abana case, this Court further stated that the mere opinion of doctors regarding the non-causality of unknown illnesses cannot prevail over the presumption established by law. It is, therefore, clear, as in the instant case, that where the cause of the illness of the claimant or of the death of the deceased is not definitely determinable, the medical report or findings presented by respondent employer (the ECC or GSIS) does not or cannot constitute substantial evidence to prevail over the presumptions of compensability and aggravation and thus defeat the compensability of the claim.

"In the recent case of Vda. de Laron vs. WCC, et al. (L-43344, Sept. 29, 1976), this Court, in finding malignant tumor of the abdomen compensable, declared that there is a presumption to compensability where working conditions contributed to the general weakening of bodily condition of the employee and lessening of his resistance to the growth of the malignancy.

"Thus, too, in the more recent case of National Housing Corporation vs. WCC, et al. (L-37907, Sept. 30, 1977), this Court held gastric carcinoma compensable on the precept that probability and not ultimate degree of certainty is the test of proof in compensation proceedings.

"Furthermore, in the case of Flores vs. WCC, et al. (L-43540, March 14, 1979), this Court emphatically ruled that the exact medical cause of the illness of an employee is not significant, for, granting for argument's sake, that the evidence of the claimant is insufficient to show a causal link between the nature of his employment and his ailment, it is to be presumed that the claimant's illness which supervened at the time of his

employment, either arose out of, or was at least aggravated by, said employment, and that with this legal presumption, the burden of proof shifts to the employer, and the employee is relieved of the burdens to show causation."

Inevitably, the compensability of the deceased's ailment, epidermoid carcinoma of the thyroid gland, has been duly established from the foregoing, apart from the fact that the presumption of compensability has not been overthrown by the respondents. This is even buttressed by the observation of this Court in the 1980 LaO case, *supra*, that "the GSIS now recognizes that certain types of cancer are work-connected and hence, compensable, which findings were previously challenged by the ECC and by the (GSIS) System itself."

The records also show that indeed the deceased was also sick of pulmonary tuberculosis (PTB). Thus, the deceased's certificate of death reads:

"I. Disease or Condition Directly Leading to Death:

"(a) Epidermo Carcinoma of the Thyroid Gland to Secondary P.T.B." (Annex "E", p. 24, rec., italics supplied).

Respondent GSIS however, questioned the existence of said sickness on the grounds that the deceased submitted only a fluoroscopic examination and the examination was conducted at the Quezon Provincial Chest Center, not at the Jose Reyes Memorial Hospital nor at the GSIS Hospital where he had previously been examined and found to be suffering from advanced cancer. The contention of respondent GSIS is not tenable. It is not sufficient to overthrow the presumption of regularity that official duties had been duly performed. The above-mentioned certificate of death was duly certified by the Local Civil Registrar of Mauban, Quezon, and by a certain Dr. Juan I. Rienton. There is merit to the assertion of the deceased that his duties "involved a close and frequent contact with source or sources of tuberculosis infection besides from (my) being subjected to all kinds of weather daily" (Annex "D", p. 23, rec.).

The Court takes judicial notice of the strenuous nature of the work of a letter-carrier/mail messenger. Generally, the work of a letter-carrier consists of collecting mail from letter drop boxes; sorting and bundling mail preparatory to delivery; making house-to-house delivery of mail; attending to the carrier's delivery window; recording mail delivered and the undelivered; indorsing undeliverable mail; delivering and receiving mailbags from buses and other conveyances; sorting mail bags according to destination and doing other related work not involving money or property responsibility, whenever such work will not retard collection and delivery of mail. Letter-carriers cover mostly by foot the territorial area of their places of assignment, especially those in the rural areas, and this includes the outlying barrios, and brave inclement weather in order to deliver the mail through dusty and dirty roads and trails, on rolling terrains, aggravated by forests and rivers or creeks to be crossed (*Belmonte vs. WCC, et al.*, G.R. No. L-38332, July 26, 1974, 58 SCRA 138, 140, 141).

It must be stated that inhaling dust and dirt can irritate the thyroid and cause tuberculosis—an insidious disease that develops imperceptibly. Fatigue and adverse weather conditions while delivering mail weaken the body resistance and lead to pulmonary tuberculosis (PTB). Thus, it was held by this Court that "(T)uberculosis is not an instantaneous disease; it is an imperceptible disease caused by a germ which is breathed into and feeds on the lungs or taken with food. It is medically accepted that exposure to dust and dirt is a predisposing cause of tuberculosis and tends to produce fibrosis of the lungs which weakens resistance to any latent tuberculosis infection and reactivates that infection" (*Gray, Attorney's Textbook of Medicine*, 1940 ed., p. 639; *Valencia vs. Workmen's Compensation Commission and the City of Manila*, L-41554, July 30, 1976, citing *Grain Handling Co., Inc. vs. Sweeney*, 102 F (2d) 464, Jour. A.M.A., Vol. 115, No. 23, Dec. 7, 1940, p. 2022).

"The pulmonary tuberculosis of petitioner occurred in the course of his employment and was aggravated by the nature of his work. As a Senior Librarian in the government-owned National Library, the biggest in the country,

petitioner had to handle, sort out, stack up volumes and volumes of books and loads of documents, old and new, and in the daily process, he had contact with mold, mildew, and dust-polluted air which, inhaled constantly, necessarily infected his lungs and weakened his bodily resistance to disease more particularly to pulmonary tuberculosis. Undoubtedly, petitioner's ailment is work-connected, work-aggravated and compensable" (Justo vs. WCC, et al., No. L-43681, January 31, 1977, 75 SCRA 220, 224-255, citing a host of cases).

And the food or fruits he eats in the office or on the road while delivering mail might have been contaminated with TB germs.

It becomes clear then that the two ailments contracted by the deceased are strongly connected. As persuasively pointed out by herein petitioner:

"Respondents should have taken into account the fact these ailments are interrelated, both being ailments of the respiratory system; and that the ailment of PTB may have caused, contributed or accelerated the rapid progression of his other ailment of Thyroid Carcinoma" (p. 9, Brief for the Petitioner, p. 35-K, rec.)

The inception of the above ailments being difficult to detect with great accuracy despite the advance of science, there is a strong probability that the deceased had been afflicted with PTB before he contracted the ailment of epidermoid carcinoma of the thyroid gland. Consequently, the contraction of PTB could have weakened the resistance of the deceased to the point that he became prone to other diseases, including thyroid carcinoma.

Likewise, it is crystal-clear from the authorities already cited that the opinion of the attending physician to the effect that the illness of the deceased was not directly caused by his duties is of no moment. After all, certainty is not what the law requires; it is sufficient that the hypothesis on which the claimant bases his claim is probable.

Moreover, and as correctly pointed out by herein petitioner, respondent GSIS conceded that the working conditions of the deceased aggravated his physical condition and that the deceased's ailments supervened during the course of his employment.

Thus, respondent GSIS stated:

"Petitioner adheres to the view that because her husband was subjected to all kinds of health hazards during his employment, the risk of contracting the ailment was increased by his working conditions. However, while this may be so, it is only to be understood as reaching up to the level of aggravation, which is no longer compensable. The precept of increased risk as a requirement for compensability, is but a qualification or a condition to the main requirement that the ailment must be directly caused by the employment. Petitioner herself admits that the cause of her husband's cancer is unknown.

"Indeed, the alleged adverse conditions cited by petitioner generally apply to other occupations to which employees are ordinarily exposed (to). Many employees commute from residence to office and are similarly exposed to what petitioner categorizes as 'health hazards'. These health hazards are not peculiar to the occupation of the deceased. Many letter-carriers or postmen have been exposed to such similar hazards but have not contracted thyroid carcinoma.

"At the very least, it can be conceded that the ailment of the deceased was aggravated by his employment. Unfortunately, aggravation is no longer recognized as a ground for compensability under the Labor Code (Ibañez vs. ECC [Resolution], L-47008, March 8, 1978; Corales vs. ECC [resolution en banc], L-44063, February 27, 1979; Cenabre vs. ECC, L-46802, April 28, 1980. See also concurring opinion of Mr. Justice Antonio P. Barredo in Enrique, Sr. vs. Republic, L-48252, October 30, 1979; Froilan M. Bacungan, "Achieving Justice for the Worker under the Labor Code," Integrated Bar Journal, Vol. 5, No. 2, pp. 132-139).

"... ..

"Parenthetically, the doctrine of aggravation under the old Workmen's Compensation Act should be distinguished from the increased doctrine under the Labor Code.

"Under the Workmen's Compensation Act, the established jurisprudence is that an ailment is compensable so long as the employment contributed even in a small degree to the ailment. Thus, if an employee suffered tuberculosis and his work had weakened his resistance thereto even if he did not receive the tubercular germ while he was at work, his ailment would be compensable because it can be said that it was aggravated by his employment. Under this concept, practically all ailments of the employee would be compensable because it can safely be said in practically all instances that the employee's work would have something to do with the ailment.

"Now under the present law, only work-connected ailments are covered, as expressly stated in the law (Article 166, Labor Code). Principally, the illness must be caused by the employment but the word 'caused' can be subject to varying interpretations such that the law has decided to require the essential condition that the risk of contracting the ailment is increased by working conditions" (pp. 12-15, Memorandum for Respondent GSIS, pp. 108-111, *italics supplied*).

The aforequoted portion of the memorandum of respondent GSIS unequivocally admitting the well-established doctrine of aggravation under the old Workmen's Compensation Law, militates against the stand of respondent GSIS denying the claim erroneously based on the assumption that the New Labor Code is applicable in the instant case.

And as admitted by the GSIS, the new Labor Code acknowledges liability when "risk of contracting the ailment is increased by working conditions" (*supra*).

Furthermore, well-settled is the rule that all doubts should be resolved in favor of labor. To rule otherwise, is a betrayal of OUR zealous commitment to uphold the constitutional provision affording protection to labor.

Thus, this Court stressed once again in the recent case of *Villavert vs. ECC, et al.* (G.R. No. L-48605, December 14, 1981) that Article 4 of the Labor Code of the Philippines, as amended, provides that "All doubts in the implementation and interpretation of this Code, including its implementing rules and regulations shall be resolved in favor of labor."

Noteworthy at this juncture is the contention of respondent GSIS that the employer (Bureau of Posts), not the State Insurance Fund, is liable to pay the claim in the present case. Thus, respondent GSIS emphatically averred:

"It is to be noted from the facts of this case that the ailment of petitioner's husband had its onset one and a half years before September 13, 1975, as clearly found by the attending physician. This would mean that the cause of action in this case accrued sometime in the month of April 1974, or prior to the effectivity of the present employees' compensation law.

"In line with the doctrine established by this Honorable Court in *LaO vs. Employees' Compensation Commission*, G.R. No. 50918, May 7, 1980, the employer, not the State Insurance Fund, should be the one to pay the claim.

"In the *LaO* case, this Honorable Court ordered that payment of the claim therein involved, which arose prior to the present law, be paid by the employer, the Provincial Government of Quezon. When the GSIS moved for clarification in that case as to which entity should pay the claim, this Honorable Court promulgated on November 3, 1980 the following Resolution:

'G.R. No. 50918 (*Milagros B. LaO, etc., vs. Employees' Compensation Commission, et al.*), considering the motion of the Government Service Insurance System filed on July 18, 1980 for clarification/reconsideration of the decision dated May 7, 1980, and it appearing that the cause of action accrued, as clearly stated in the said

decision, prior to the effectivity of the New Labor Code rendering applicable the former Workmen's Compensation Law and the pertinent jurisprudence thereon, and that the dispositive portion of the decision directs only the respondent Provincial Government of Quezon to pay the amounts specified therein, the Court Resolved to DENY said motion for clarification/reconsideration, and this denial is FINAL' (italics by this Honorable Court).

"It is, therefore, very clear that the employer in this case, the Bureau of Posts, should be the one to pay petitioner's claim, if legally compensable, and not the State Insurance Fund administered by the GSIS" (pp. 104-105, rec.).

The question has been foreclosed in a very recent resolution promulgated by this Court. The same issue was raised by respondent Government Service Insurance System in its motions for clarification and/or reconsideration filed by it and respondent Employees' Compensation Commission in the cases of Corales vs. ECC and the GSIS (Bureau of Lands), G.R. No. L-44063, Villones vs. ECC and GSIS (Department, now Ministry of Education and Culture), G.R. No. L-46200, Cañeja vs. ECC and GSIS, G.R. No. L-46992, and Barga, Jr. vs. ECC and GSIS, G.R. No. L-49227, resolved by this Court on March 15, 1982. Thus:

"As already noted, the stand of the respondent ECC is that the respective employers of the petitioners are the ones liable to pay the awarded benefits in these compensation claims; respondent GSIS, however, is willing to pay the awarded compensation benefits on the condition that its right of reimbursement from the aforesaid employers of petitioners is recognized. Only petitioner Felixberto Villones does not entirely agree with the concession offered by the respondent GSIS.

"Respondent ECC is silent on the said offer of respondent GSIS.

"Under the New Labor Code, it is the ECC which is empowered to initiate, rationalize and coordinate the policies of the employees' compensation program (Article 176 [a]), while the general conduct of operations and management functions of the GSIS is vested in its chief executive officer, who shall be responsible for carrying out the policies of the Commission [Art. 176 (c)]. Under Article 177, the Commission approves rules and regulations governing the processing of claims and other settlement of disputes arising therefrom as prescribed by the System (paragraph c); and may perform such other acts as it may deem appropriate for the attainment of the purposes of the Commission and proper enforcement of the provisions of this Title (paragraph L). And Article 178 provides that all revenues collected by the System under this Title shall be deposited, invested, administered and disbursed in the same manner and under the same conditions, requirements and safeguards as provided by Republic Act Numbered Eleven Hundred Sixty-One, as amended, with regard to such other funds as are thereunder being paid to or collected by the SSS and GSIS, respectively; Provided, That the Commission, SSS and GSIS may disburse each year not more than twelve percent (12%) of the contributions and investment earnings collected for operational expenses, including occupational health and safety programs, incidental to the carrying out of this Title.

"Respondent ECC's silence on the posture of respondent GSIS could be construed as acquiescence thereto.

"It must be noted that GSIS seeks to pursue its claims for reimbursement against the employers of petitioners before the respondent ECC which, according to respondent GSIS, may take cognizance thereof by ordering the respective employers of the petitioners to reimburse whatever payments may be made by the respondent GSIS to the petitioners, but only after the employers are afforded a hearing, in which they may plead any defense to defeat the right of reimbursement of respondent GSIS.

"Under the premises, respondent GSIS' offered solution merits OUR approval. The reimbursement aspect will not be tainted with arbitrariness as due process is assured by affording the respective employers of petitioners in these cases opportunity to be heard" (italics supplied).

WE deemed it unnecessary to go into the other issues raised by respondent GSIS as they are predicated on the supposition that the provisions of the New Labor Code are applicable in the instant case.

It appearing that herein petitioner had availed of the services of a lawyer, petitioner is entitled to recover attorney's fees.

WHEREFORE, THE DECISION OF RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

- TO PAY HEREIN PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DEATH BENEFITS;
- TO REFUND PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;
- TO PAY PETITIONER BURIAL EXPENSES IN THE AMOUNT OF TWO HUNDRED (P200.00) PESOS;
- TO PAY PETITIONER SIX HUNDRED (P600.00) PESOS AS ATTORNEY'S FEES; AND

- TO PAY ADMINISTRATIVE COSTS.

THIS IS WITHOUT PREJUDICE TO THE RIGHT OF THE GSIS TO SEEK REIMBURSEMENT FROM THE BUREAU OF POSTS, WHICH SHALL BE HEARD THEREON PURSUANT TO THE REQUIREMENTS OF DUE PROCESS.

SO ORDERED.

Concepcion, Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., took no part.

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